

TOWN OF PALM BEACH

TENTATIVE -
SUBJECT TO
REVISION

SPECIAL TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

THURSDAY, MARCH 30, 2017

9:00 AM

Welcome!

For information regarding procedures for monitoring or participating in Town Council Meetings, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
Richard M. Kleid, President
Danielle H. Moore, President Pro Tem
Julie Araskog
Bobbie Lindsay
Margaret A. Zeidman

II. PLEDGE OF ALLEGIANCE

III. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE

IV. FIRST READING OF ORDINANCE NO. 9-2017, AND TRANSMITTAL OF SAME TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY, AMENDING THE TOWN OF PALM BEACH COMPREHENSIVE PLAN AND DISCUSSION OF THE PROPOSED COMPREHENSIVE PLAN PROVISIONS PERTAINING TO THE SAFE NEIGHBORHOODS ACT.

V. RECREATION CENTER AND FRIENDS OF RECREATION GRANT OFFSET FOR PRE-CONSTRUCTION EXPENDITURES

IV. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Note 4:** Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Note 5:** Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.
- Note 6:** All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Town Council meeting. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website (townofpalmbeach.com).

PROCEDURES FOR PUBLIC PARTICIPATION

Citizens desiring to address the Town Council should proceed toward the public microphones when the applicable agenda item is being considered to enable the Town Council President to acknowledge you.

PUBLIC HEARINGS:

Any citizen is entitled to be heard on an official agenda item under the section entitled "Public Hearings," subject to the three minute limitation.

COMMUNICATIONS FROM CITIZENS:

Any citizen is entitled to be heard concerning any matter under the section entitled "Communications from Citizens," subject to the three minute limitation. The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion.

OTHER AGENDA ITEMS:

Any citizen is entitled to be heard on any official agenda item when the Town Council calls for public comments, subject to the three minute limitation.

Town Council Meetings are public business meetings and, as such, the Town Council retains the right to limit discussion on any issue.

TOWN OF PALM BEACH

Information for Special Town Council Meeting on: March 30, 2017

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Ordinance No. 9-2017 Amending the Town of Palm Beach Comprehensive Plan and discussion of the proposed Comprehensive Plan provisions pertaining to the Safe Neighborhoods Act.

Date: March 28, 2017

STAFF RECOMMENDATION

Adopt Ordinance No. 9 -2017 as presented on first reading and transmit the Comprehensive Plan to the Florida Department of Economic Opportunity for review and comment prior to second and final reading.

GENERAL INFORMATION

All that remains is a discussion on the Safe Neighborhoods Act and the ability to provide for Neighborhood Improvement Districts allowed by the Act. As requested, we researched the subject matter and found there are over 1,600 special districts in Florida. We pinpointed about 20 that are clearly NID districts authorized under the Act, but we feel there are many more than this because it is clear that when districts are created the name adopted may not line up exactly as stated in the statute. The Safe Neighborhoods Act references "special business neighborhood improvement districts" and "community redevelopment neighborhood improvement districts," but there is no requirement that such a district have a name that follows those forms. There are scores and scores of districts that go by a name such as "community development district", but we did not have time to research hundreds to see what statute they were formed under. In the short time we had we looked at those that we thought were obvious.

We decided to contact four districts that appeared to be applicable to what we reference in the proposed Comprehensive Plan, these being City of Atlantis, St. Armands Special Business Neighborhood Improvement District in Sarasota, Coconut Grove Business Improvement District in Miami and the Business Improvement District of Coral Gables (@ Miracle Mile). Sarasota reports that the St. Armand's NID has been successful. Google St. Armand's Circle to see how successful it is. It is a high end shopping and dining area. The City of Atlantis reports that their NID has been a success. They use it for justification of, via the required planning ordinance, the four checkpoints into Atlantis and for issuance of vehicle decals to residents and commercial vehicles for tracking purposes. Atlantis reports they have never implemented a tax or assessment under their NID. Both Coconut Grove and Coral Gables at Miracle Mile we learned were created under Chapter 170 and therefore are not applicable to the Safe Neighborhoods Act, but clearly

the use is not limited to high crime areas.

It is also used by those wishing to be smart and proactive. Examples are the voter approved NID in south downtown Orlando; Golden Isles and Three Islands neighborhoods in Hallandale Beach; the gated Isles of Inverrary and the Manors of Inverrary in the larger Inverrary community in Lauderdale; Normandy Shores , a small island community just off Miami Beach, but part of the City of Miami Beach; Orlandia Heights in De Bary , where the median home value is about \$250,000, which used it to make roadway improvements in their neighborhood; and Sunrise Key, an island of single family homes in the middle of the New River near downtown Ft. Lauderdale. All nice communities attempting to accomplish coordinated, balanced and harmonious safe neighborhoods to maintain and preserve property values and preserve, foster or maintain an attractive neighborhood environment.

This is not to say that run down areas do not use NIDs because they do state -wide. Locally, I am aware the City of West Palm Beach used an NID in Northwood to close off road way access points along Broadway. The Town of Lake Park used the NID to close off access to their neighborhoods from Silver Beach Road. Some places wake up to reality sooner than others.

The Town's proposed Comprehensive Plan only makes reference to NIDs twice as follows:

"POLICY 2.1.1

The Town shall may encourage the establishment of Neighborhood Improvement and/or Safe Neighborhood District(s), where appropriate, consistent with Florida Statutes as a mechanism to enhance and preserve existing neighborhoods within the Town." Emphasis added.

"OBJECTIVE 2

The Town will continue to implement innovative and state of the art law enforcement techniques and technologies to ensure the health, safety and welfare of residents, businesses and visitors.

POLICY 2.3

The Town may encourage the establishment of Neighborhood Improvement and/or Safe Neighborhood District(s), where appropriate, consistent with Florida Statutes as a mechanism to:

- prevent overcrowding and congestion;
- improve or redirect automobile traffic and provide pedestrian safety;
- reduce crime rates and the opportunities for the commission of crime; and
- provide improvements in neighborhoods so they are defensible against crime. " Emphasis added.

These are merely declaratory statements with no required action whatsoever. They are an act of transparency informing the citizens of Palm Beach that its leaders are cognizant of the potential for explosive growth in West Palm Beach that can have spillover effects in Palm Beach and that the leadership is being proactive by stating some of the potential tools it may use if it comes to that in order to protect the health, safety and welfare of the citizenry of Palm Beach. In short, these statements are pointing to a tool that may be pulled from the toolbox, if needed.

There was a request for an indication of any legal challenges that may have occurred in the courts

relative to the Safe Neighborhoods Act or the concomitant NIDs. My recollection from Mr. Randolph was there was not much activity in that regard. Besides, if there were the statute would be either nullified or radically altered. Neither has occurred that I am aware of. Mr. Randolph will not be at this Special meeting, but his colleague, Thomas Baird, a long tenured municipal attorney will sit in Skip's absence and may be able to address that question.

Cc: John Page, Director of Planning, Zoning and Building
John Lindgren, Planning Administrator
Paul Castro, Zoning Administrator
John C. Randolph, Town Attorney
Thomas Baird, Esq., Jones, Foster
Planning & Zoning Commissioners

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 15, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Comprehensive Plan Update
Ordinance No. 9-2017

Date: March 1, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council (sitting as both the Local Planning Agency and the Town Council) conclude its review of the updated Comprehensive Plan, approve on first reading Ordinance No. 9-2017, and transmit said ordinance to the Florida Department of Economic Development (DEO) for its concurrence.

GENERAL INFORMATION

The Town's Comprehensive Plan has been updated (per direction originated by the Town Council in 2015) with assistance provided by each Town Department and the Town's planning consultant, Calvin Giordano & Associates. Plan updates have been reviewed and endorsed by the Planning & Zoning Commission, and have been discussed by the Council during its three most recent meetings in December, January and February. Plan additions/corrections/clarifications have been made throughout the review and approval process.

Attached you will find a summary memo from consultant Richard Cannone (Calvin Giordano) identifying the latest changes as directed by the Council last month. Also attached is Ordinance No. 9-2017 along with the final draft of the updated Comprehensive Plan.

Staff would like to stress that the critical principles of the existing Comprehensive Plan such as limiting density, avoiding over-commercialization, and maintaining existing residential character remain unchanged. Obsolete or outdated information has been refreshed. As previously reported, several new or strengthened statements pertaining to maintaining strong infrastructure, being mindful of rising sea levels, disallowing development of submerged lands, protecting neighborhoods, and promoting energy conservation have been included. Staff believes the revised Plan continues to perpetuate the quality of life traditionally expected in Palm Beach.

After Town Council approval of Ordinance No. 9-2017 on first reading, staff shall submit the proposed updates to the DEO and other reviewing agencies within the required 10 days, which

will be in accordance with the original State directive to do so by April 1, 2017. The DEO and other reviewing agencies have 30 days to respond to the proposed Comprehensive Plan update; therefore, staff anticipates that the Comprehensive Plan update will return to Town Council for second reading and adoption in June of this year.

TOWN ATTORNEY REVIEW

This ordinance has been reviewed by the Town Attorney for legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
Veronica Close, PZB Assistant Director
John Lindgren, Planning Administrator
Paul Castro, Zoning Administrator
Planning & Zoning Commissioners

ORDINANCE NO. 9-2017

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN OF PALM BEACH'S COMPREHENSIVE PLAN BY AMENDING THE DATA & ANALYSIS, AS WELL AS THE GOALS, OBJECTIVES AND POLICIES WITHIN THE PLAN BASED ON THE TOWN'S RECENT EVALUATION AND APPRAISAL OF THE COMPREHENSIVE PLAN; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town proposes to amend its Comprehensive Plan in accordance with the requirements of the 1993 Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, the Town created the Town of Palm Beach Comprehensive Plan with the adoption of Ordinance No. 11-89, and last amended the Comprehensive Plan on July 16, 2014 with the adoption of Ordinance No. 9-14; and

WHEREAS, the Town is amending the Data & Analysis as well as the Goals, Objectives, and Policies (GOPs) within the plan based on the Town's recent evaluation and appraisal of the Comprehensive Plan; and,

WHEREAS, after a public hearing pursuant to notice required by law, the Planning and Zoning Commission considered all testimony and recommended modifications to the Town's Comprehensive Plan; and

WHEREAS, after public hearing pursuant to notice required by law, the Town Council, acting as the Local Planning Agency (LPA) at its March 15, 2017 meeting, considered the Planning and Zoning Commission's Record and Report and all evidence and testimony and recommended that the Town Council approve on first reading the subject Ordinance amending the Town's Comprehensive Plan, and transmit said ordinance to the Florida Department of Economic Opportunity (DEO); and,

WHEREAS, after public hearings on March 15, 2017 and March 30, 2017, pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach requires that the aforesaid Comprehensive Plan, be amended as hereinafter set forth, and transmitted to the Florida Department of Economic Opportunity (DEO).

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals

The above recitals are incorporated as fully set forth herein.

Section 2. Findings

The proposed Comprehensive Plan amendments, as more particularly described in Exhibit A, have been determined by the Town Council to promote the public health, safety and welfare, and are consistent with the requirements in Florida Statutes, and all elements of the adopted Comprehensive Plan.

Section 3. Amendment of the Comprehensive Plan

The Town of Palm Beach Comprehensive Plan is hereby amended to incorporate those amendments set forth in Exhibit A attached hereto and incorporated herein by reference.

Section 4. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 5. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 6. Codification.

This Ordinance shall be codified and made a part of the official Comprehensive Plan of the Town of Palm Beach.

Section 7. Effective Date.

This Ordinance shall take effect thirty-one days after its adoption, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 30th day of March, 2017, and for second and final reading on this ____ day of _____, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MPA, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

EXHIBIT A

GOAL 2

THE TOWN MAY PROMOTE PUBLIC/PRIVATE PROGRAMS AND RELATED ACTIVITIES THAT STRENGTHEN, STABILIZE, IMPROVE AND ENHANCE NEIGHBORHOODS GIVEN THE CONFINEMENT OF THE ISLAND'S TOPOGRAPHY AS WELL AS THE INTRUSION OF AUTOMOBILE TRAFFIC WITHIN RESIDENTIAL NEIGHBORHOODS.

OBJECTIVE 2.1

The Town ~~shall~~ recognizes the value of strong and stable neighborhoods by encouraging neighborhood identity and promoting neighborhood enhancement projects.

Policy 2.1.1

The Town ~~shall~~ may encourage the establishment of Neighborhood Improvement and/or Safe Neighborhood District(s), where appropriate, consistent with Florida Statutes as a mechanism to enhance and preserve existing neighborhoods within the Town.

PUBLIC SAFETY ELEMENT

GOALS, OBJECTIVES AND POLICIES

GOAL

Promote the health, safety, and security of the City's residents and visitors, including in times of disasters and other emergencies.

OBJECTIVE 1

The Town of Palm Beach shall continue to maintain and enhance a high level of safety and security for residents and visitors of the Town.

POLICY 1.1

Provide a coordinated and proactive public safety program through the Public Safety Director.

POLICY 1.2

Maintain a well-trained and adequately-staffed police department dedicated to law enforcement activities within the Town.

POLICY 1.3

Continue to ensure that excellent professionally maintained fire rescue services are provided within the Town.

OBJECTIVE 2

The Town will continue to implement innovative and state of the art law enforcement techniques and technologies to ensure the health, safety and welfare of residents, businesses and visitors.

POLICY 2.1

Incorporate "Crime Prevention Through Environmental Design" (CPTED) concepts and techniques to the maximum extent feasible during site planning for new development and redevelopment.

POLICY 2.2

The Police Department shall continue high profile enforcement of all vehicular and non-vehicular traffic laws.

POLICY 2.3

The Town may encourage the establishment of Neighborhood Improvement and/or Safe Neighborhood District(s), where appropriate, consistent with Florida Statutes as a

mechanism to:

- a. prevent overcrowding and congestion;
- b. improve or redirect automobile traffic and provide pedestrian safety;
- c. reduce crime rates and the opportunities for the commission of crime; and
- d. provide improvements in neighborhoods so they are defensible against crime.

OBJECTIVE 3

The Town shall seek to reduce the exposure of life and property to hurricanes and other disasters through the planning and implementation of emergency preparedness, response and recovery plans.

POLICY 3.1

The Town's Comprehensive Emergency Management Plan (CEMP), which includes the Storm Emergency Response Plan (SERP) and Continuity of Operations Plan (COOP) be reviewed and updated as needed.

POLICY 3.2

Due to the Town's location within the Coastal High Hazard Area and general vulnerability to hurricane events, the Town shall ensure that future development or redevelopment maintains or reduces hurricane evacuation times through land use controls.

POLICY 3.3

Coordinate with adjacent municipalities, Palm Beach County, the Florida Department of Transportation and other responsible agencies, to ensure that the regional transportation network provides for the safe and timely evacuation of residents in a hurricane or other emergency event is not degraded as a result of Transportation Concurrency Exemption Areas (TCEA).

TOWN OF PALM BEACH

Information for Special Town Council Meeting on: March 30, 2017

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Proposed Recreation Center Project and Friends of Recreation Grant Offset for Pre-Construction Expenditure

Date: March 27, 2017

STAFF RECOMMENDATION

Consider the narrative and attachments below and determine if the funds to be expended by the Friends of Recreation (Friends) should be construed as a donation or as a grant off-set to the total to be paid by Friends to complete the proposed new Recreation Center project as contemplated in the Grant Agreement(s) between the Mandel Foundation, Friends, and the Town.

GENERAL INFORMATION

On or about February 17 I received a letter from Friends for me to acknowledge that the \$33,000 +/- payment they were making to enable Hedrick Brothers to proceed with the pre-construction services portion of the CMAR contract was to count towards Friends share of the total cost of the project currently estimated to be about to \$ 3.7 million. I signed the letter on behalf of the Town on or about March 17 because I had simply forgotten about the request until Beth Zickar reminded me that same day and because pre-construction services are part of the Recreation Center budget, meaning its cost is to be shared among the three parties, and because I had a recollection of hearing staff say it was an advanced payment by Friends to keep the project moving. If the project continues to proceed the next step in the CMAR process is the preparation of the guaranteed maximum price which memory tells me is in the \$45,000 range. That contractual cost exceeds my authority so it will have to be approved by the Town Council. It is my understanding that friends will prepay this cost too. Therefore, it is imperative that this matter be clarified now.

Town Council member Julie Araskog was not aware that the Friends payment of these costs was to be construed as a prepayment of Friends obligations under the Grant Agreement and felt it was a pure donation and that my actions were either outside my scope or in contravention of the actions or intent of the Town Council. I can see how she could come to that conclusion since the resolution approving the pre-construction services is silent on the issue, the record indicates that Friends would pay for this and even some talk of it as a donation and formal acceptance of the donation from Friends at which point someone should have clarified that the so called donation was simply an advance, but technically could be called a donation. Also, Hedrick Brothers is donating a portion of their cost to provide the pre-construction services. Further, Paul Brazil's backup is silent on the subject of the funds being a prepayment, an advance or grant off-set.

Nevertheless, in my mind since Pre-Construction services are a clear and irrefutable portion of this or any CMAR project budget and payment of this project's cost is governed by a Grant Agreement sharing cost equally between three parties I felt it was a bona fide cost to be shared and could count toward the total contribution of Friends toward the project costs.

Attached here to, please find the following for your consideration:

1. The Friends of Recreation Foundation letter dated February 17 signed by me, with attached budget.
2. Julia Araskog's letter dated March 18 addressed to Skip Randolph and me on this subject.
3. Skip Randolph's email on the subject dated March 23

cc: Jay Boodheshwar, Deputy Town Manager
H. Paul Brazil, P.E. Director of Public Works
Jane Struder, Director of Finance
Patricia Strayer, Town Engineer
Kevin Schanen, P.E. Kimley-Horn

Friends of Recreation Foundation

Matthew K. Smith
Chairman

Michael Ainslie &
Darlene Jordan
Vice-Chairman

Board of Directors

Suzanne Ainslie
Carolyn E. Buckley
Whitney Bylin
Mormie Donnelly
David Gochman
Michael Kluger
Jebb McClacken
Alisa Mullen
Marge Picotte
John Preston
Bob Simses
Steve Smith
Lesly Smith
Chris Storkerson
Fritz van der Grint
Bob Wright

February 17, 2017

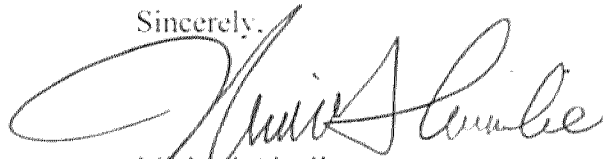
Town of Palm Beach
360 South County Road
P.O. Box 2029
Palm Beach, Florida 33480

Re: Friends of Recreation

To Whom it May Concern,

On behalf of the Friends of Recreation, please find enclosed a check in the amount of thirty-three thousand eighty-eight dollars (\$33,088). This check represents a contribution towards, and is not in addition to, the \$3,700,000 commitment which the Friends of Recreation has made to the Town of Palm Beach in furtherance of its mission to rebuild the Recreation Center. Please acknowledge receipt of this letter and return a copy to the Friends of Recreation at your earliest convenience.

Sincerely,



Michael Ainslie
Vice President, Friends of Recreation

Acknowledgement of Receipt:



Name:

Title: TOWN MANAGER

Enclosure

cc: Matthew K. Smith
Darlene Jordan

Cost Items	Renovation	New Construction
Extensive renovation within existing shell (approx. 11,000 under air)	\$3,300,000	n/a
Construction of 1-story building (14,860 under air) & accessory structures	n/a	\$5,991,950
Foundation allowance for pilings or demucking	\$0	\$600,000
New playground	\$300,000	\$450,000
Renovation of multipurpose field	\$400,000	\$400,000
Site landscaping & hardscape	\$200,000	\$500,000
Demolition and other site work	\$200,000	\$500,000
<i>Sub-total</i>	<i>\$4,400,000</i>	<i>\$8,441,950</i>
15% Contingency	\$660,000	\$1,266,293
Construction Sub-total	\$5,060,000	\$9,708,243
Furniture, fixtures and equipment	\$300,000	\$500,000
Architectural Fees, Pre-Construction Services, Construction Management	\$550,000	\$854,818
Project Total	\$5,910,000	\$11,063,061
Town Share of Costs *	\$5,910,000	\$3,687,687
Estimated cost to bring existing building to base flood elevation and improve foundation	\$1,600,000	included
Town Share of Costs *	\$7,510,000	\$3,687,687

* Town cost for new construction would be a third of total cost, with remaining two-thirds to be funded by the Morton and Barbara Mandel Family Foundation and Friends of Recreation.

March 18, 2017

Tom and Skip,

The Town Council passed *Resolution 22.2017* at the February 14, 2014 Town Council meeting. The decision and facts were memorialized on audio, well attended by the public, and covered by the Palm Beach Daily News. Transparency within Palm Beach Government is most important to our residents and has been questioned in the past, especially in regard to the process involved in the proposed new Recreation Center. In my opinion, the actions taken by Our Town Manager are not in keeping with The Town Council vote on this matter, Our Town's Charter, or our obligation of transparency.

First, as a Town Council Member, I ask that Tom Bradford's commitment of the Town of Palm Beach to pay for one-third of the costs of the Pre-Construction Phase Contract with Hedrick Brothers detailed below be rescinded and Our Town proceed according to our vote and arrangement that Friends of Recreation pay 100% of costs, or that the Contract with Hendrick Brothers, Inc. be put on hold immediately until the Town Council can revisit *Resolution 22.2017*.

According to our Town Charter the Town Manager's powers to sign contracts are limited as written under **Sec. 4.04 - Powers and Duties of the Town Manager: (i) Sign contracts on behalf of the Town as directed by the Town Council**. The Town Council directed all payments related to *Resolution 22.2017* be a donation paid for entirely by Friends of Recreation as detailed below. The Town Council never directed Mr. Bradford out of "fairness" to agree to pay for one-third of the costs. It is my opinion that Mr. Bradford did not have the authority to burden our Town with such costs and obligations under the Charter when we specifically voted otherwise and with such intent.

Resolution 22.2017: a Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Approving a Purchase Order in the amount of \$33, 088 to Hedrick Brother's Construction, Inc. for Pre-Construction Phase Services for the Seaview Park and Palm Beach Recreation Center Improvements and Establishing a Pre-Construction Phase Budget of \$80,000, was passed by the Town Council on February 14, 2017 by 5-0. The Town Council passed *Resolution 22.2017* predicated on *Friends of Recreation* giving a "100%" donation to pay for the cost of this resolution with no cost to the Town of Palm Beach or Palm Beach taxpayers.

I have transcribed the applicable section from the audio of the February 14, 2017 Town Council Meeting below, which clearly demonstrates that the information provided by Paul Brazil regarding *Resolution 22.2017* preceding our vote ensured that this contract would be paid for solely by a donation from Friends of Recreation without any cost to the Town or the Town's taxpayers. Two votes were taken: one to approve *Resolution 22.2017* and one to accept the donation to pay for the costs associated with *Resolution 22.2017*.

On February 14th, Paul Brazil detailed the 80,000-dollar contract with Hedrick Brothers for Pre-Construction Phase Services. The first two tasks make up 33,088 dollars and is the Constructability Review. Paul Brazil stated that the third task would cost approximately 45,000 dollars and is part of the 80,000 dollar contract: "The way it is written the Town Manager would be authorized to issue a purchase order for that third task," which would be approximately 45,000 dollars. "For today, it is simply the development review and the constructability review, and we are asking for the authorization for 33,000 dollars to get that going."

February 14, 2017 transcription by me of the audio on the Town's Website:

2:47:54

President Richard Kleid asked: "Who is going to pay for this?"

Director of Public Works, Paul Brazil: "Oh, I am sorry, **100% of that is donated** and of that Hedrick Brother's is donating an extra \$15,000 to reduce the overall costs."

Councilwoman Bobbie Lindsay: "So no charge to the tax payer?"

2:48:05

Paul Brazil: "No, this is Friends of Recreation."

2:48:10

President Richard Kleid: "Now that is a win-win situation."

Paul Brazil: "Yes."

The Mayor then asked Paul Brazil to thank Hedrick Brothers for their donation and expressed resident concerns about the traffic, parking and construction time-line. Paul stated it was part of this project.

At this point a motion carried by 5- 0 to approve *Resolution 22.2017*.

2:49:28

A motion carried by 5-0 to accept the donations from Friends of the Recreation for the contracted amount.

Additionally, I was assured after the vote that we were not committing any Town money to the contract.

Additionally, I was told in a meeting with Jay Boodheshwar, Beth Zikar and Michael Ainslie that the Town would not be paying any of the said costs. I asked specifically if we would be paying one-third of those costs as I interpreted the contract between Mort Mandel Foundation, The Town, and Friends of Recreation to require, but the Vice- Chair of the Friends of Recreation, Mr. Ainslie, stated several times that only Friends of the Recreation would be paying for the Hedrick Brothers, Inc. contract. Again, I asked specifically about the contract signed between The Mort Mandel Foundation, The Town, and Friends of Recreation. I stated that if we went forward the Town must pay one-third of all costs and that this cost would be included. Mr. Ainslee assured me that this was not

the case and that Friends of Recreation would pay the entire cost.

It is my opinion that this issue must be resolved before any work is completed on this contract, and we must not proceed with the contract unless we adhere to our vote. I only voted for this Resolution because we were told the Town was exempt from payment. We do not know how other Town Council members would have voted if it had been revealed that the Town was required to pay 1/3 of costs instead of stating it was being "100%" funded by Friends of Recreation.

It is my opinion that according to the Charter, the Town Manager is obligated to adhere to the original vote and financing obligations falling solely on the Friends of Recreation, and we should proceed only if those stipulations are met. If the Town Manager continues with an agreement that the Town pay 1/3 of the costs or if his actions caused us to be bound to such a payment, the contract must be placed on hold until a new vote can be taken to provide for such funding at our next Town Council meeting or at a Special Meeting. The public should be given the opportunity to comment if we are now committing Town money to *Resolution 22.2017*.

I also request that Skip Randolph apprise us as soon as possible of our options either to remove our obligation of one-third of said costs or rectify this situation in a manner consistent with the Town Council's vote.

Lastly, at the next Town Council meeting, I would like to address the issue of Tom Bradford having the authority to sign a purchase order for the remaining 45,000 dollars as appears to be Mr. Brazil's statement above. I was told there would be a vote to continue on with the third task. If I am mistaken and Tom Bradford will be authorized to proceed with a purchase order for the remaining \$45,000 of the contract without our approval, I request that we also discuss if Tom Bradford should be required to be given approval from the Town Council before Tom Bradford may issue the purchase order of 45,000 dollars for the "third task" of this contract.

I can be reached at 561-317-4985.

Thank you,

Julie Araskog

From: Randolph, John C.

Sent: Thursday, March 23, 2017 3:53 PM

To: Tom Bradford <TBradford@TownofPalmBeach.com>

Cc: 'Jay Boodheshwar' <JBoodheshwar@TownofPalmBeach.com>; 'BZickar@TownofPalmBeach.com' <BZickar@TownofPalmBeach.com>

Subject: March 30, 2017 Special Meeting

Tom,

As I have advised, I will not be present at the special meeting of the Town Council scheduled for March 30th, at which meeting Julie Araskog's concerns relating to the intent of the Council in regard to its adoption of Resolution No. 22-2017 will be considered. Because I cannot be in attendance, I want the Council to be aware of the actions I have taken in response to Council Member Araskog's request that I "weigh in" on this matter.

Attached is the correspondence you and I received this past weekend concerning Ms. Araskog's concerns. As I was out of town over the weekend, I could not attend to this matter until I was back in my office on Monday, March 20th. That morning Ms. Araskog called me and asked what my opinion was in regard to the correspondence. I indicated I could not give my opinion, as I needed to have a better understanding of the issues and that I needed to delve into this matter more thoroughly. As part of my review, I spoke with Beth Zickar, who sent me a copy of the budget for the Recreation Center project, a copy of which is attached which, I am advised, had previously been provided to the Mayor and Council. As you will note, this budget indicates that the contribution from the Friends of Recreation for the Pre-Construction Services is part of the overall budget. The asterisk at the bottom of the page notes as follows: "Town cost for new construction would be a third of the total cost, with remaining two-thirds to be funded by the Morton and Barbara Mandel Family Foundation and Friends of Recreation." Upon reviewing this, I asked to have a meeting with those members of Staff who were most closely associated with this project, including Beth Zickar, Paul Brazil, Jay Boodheshwar, and yourself. I met with the four of you on the afternoon of March 20th. As a result of that meeting, it became apparent to me that this contribution by Friends of Recreation in the amount of \$33,088 was not an outright donation to the Town, but was an advance which, if the project were ultimately approved by Council and completed, would be divided, along with all of the other costs of the project between the three parties involved, i.e., Friends of Recreation, the Morton and Barbara Mandel Family Foundation, and the Town. This is identical to the manner in which the advances by the Mandel Foundation for the architectural fees is to be treated. In either case, it is my understanding if the project does not move forward to completion, those advances will be borne entirely by Friends of Recreation and the Mandel Foundation without recourse to the Town. Based on my review, I am of the opinion that you did not exceed your authority when you acknowledged receipt of the Friends of Recreation letter of February 17th, a copy of which is attached.

Subsequent to my meeting with Staff, I contacted Ms. Araskog by telephone, as I had promised her I would do. At that time, I advised her of my findings, but further advised that staff and I felt that because she and, according to her communication, at least one other member of the Council, did not understand the action taken by the Council in the same way that staff and I interpreted it, that we would put the matter on a subsequent agenda in order that it might be addressed by Ms. Araskog and clarified by the full Council.

Rather than wait until the April meeting of Council, we thought this matter was important enough to have it addressed by Council as soon as possible. We attempted to set up a special meeting during the week of March 20th, but because of conflicts in Council members' calendars, it was decided that this matter could be placed on the already called special meeting for Thursday, March 30th, at 9:00 a.m. That is where this matter now stands.

Although I will not be present at that meeting, members of Staff will be present and will be able to address this matter in detail. At that meeting, the Council will have an opportunity to consider Ms. Araskog's concerns and clarify its meaning and intent in regard to the adoption of Resolution No. 22-2017.

Please do not hesitate to contact me if you have any comments or questions.

Thank you.

JOHN C. RANDOLPH

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